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April 22, 2025

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: **Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 507, 508, 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of the City of Beaver Falls**
Docket No. A-2022-3033138

Dear Secretary Chiavetta:

Enclosed please find the Exceptions of the City of Beaver Falls, Pennsylvania, to the Recommended Decision of the Administrative Law Judge in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

Thank you for your kind attention to the above and attached.

Sincerely yours,
/s/ James J. Rodgers
James Rodgers

JJR:vh
Enclosures

cc: Honorable F. Joseph Brady (*via email, fbrady@pa.gov*)
Ms. Pam McNeal (*via email, pmcneal@pa.gov*)
Office of Special Assistants (OSA) (*via email, ra-osa@pa.gov*)

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Aqua Pennsylvania Wastewater, Inc. (hereinafter referred to as “Aqua” or “Applicant”) pursuant to Sections 1102 and 1329 of the Public Utility Code for:

- (1) Approval of the acquisition by Aqua of the wastewater system assets of the City of Beaver Falls (“Beaver Falls” or “City”) situated within the City of Beaver Falls Eastvale Borough, and West Mayfield Borough, Beaver County, Pennsylvania**
- (2) Approval of the right of Aqua to begin to offer, render, furnish and supply wastewater service to the public in the City of Beaver Falls, Beaver County, Pennsylvania; and**
- (3) An order approving the acquisition that includes the ratemaking rate base of the City of Beaver Falls wastewater system assets pursuant to Section 1329(c)(2) of the Public Utility Code.**

Docket No. A-2022-3033138

Request for Approval of Contracts, between Aqua and the City of Beaver Falls, Pursuant to Section 507 of the Public Utility Code

EXCEPTIONS OF THE CITY OF BEAVER FALLS TO THE RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE F. JOSEPH BRADY

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Dated: April 22, 2025

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I. INTRODUCTION

Pursuant to the procedural schedule established and in accordance with the regulations of the Pennsylvania Public Utility Commission (the “Commission”) at 52 Pa. Code Section 5.533, the City of Beaver Falls (“Beaver Falls” or “the City”), by and through its counsel, Dilworth Paxson, LLP, hereby submits these Exceptions to the Recommended Decision of Administrative Law Judge F. Joseph Brady (“Judge Brady” or “ALJ”), dated April 10, 2025 (the “Recommended Decision”) issued in connection with (1) the Joint Petition for Non-Unanimous Settlement of All Issues (“Settlement Petition”) submitted by Aqua Pennsylvania Wastewater, Inc. (“Aqua”), Beaver Falls, the Bureau of Investigation and Enforcement of the Commission (“I&E”), and the Office of Consumer Advocate (“OCA”); and (2) the Amended Application of Aqua for Approval of Acquisition of Beaver Falls’ Wastewater Assets Pursuant to 66 Pa. C.S. §§ 507, 508, 1102, 1329 (“the Application”).

The City excepts to the Recommended Decision for several reasons, but principally because the strained interpretation of Section 1329 urged by Judge Brady—which constituted the sole justification for the ALJ’s recommendation to deny the Settlement Petition—is contrary to Commission precedent and denies a settlement that is squarely in the public interest. The City respectfully requests that the Commission approve the Settlement Petition without modification.

Alternatively, the City respectfully requests that the Commission consider the merits of the Application by examining the entirety of the record and balancing all of the transaction’s benefits against the potential rate impact, and approve the Application.

A. Relevant Procedural History

This proceeding concerns Aqua’s application, filed with the Commission on February 17, 2023. The Application requested, *inter alia*, approval for Aqua to acquire the wastewater system assets of Beaver Falls (the “System”); approval for Aqua to begin to offer, render, furnish and

supply wastewater service to the public in the City; and that the Commission include in its order approving the acquisition, the ratemaking rate base of the City wastewater system assets as determined under Section 1329 of the Public Utility Code (“Code”).

The Office of Small Business Advocate (“OSBA”), OCA, and I&E all filed Notices of Appearance in this proceeding and have submitted numerous filings over the past two years.

On March 28, 2024, Aqua filed an Amended Application, that, *inter alia*, explained that Aqua and the City had negotiated a settlement of a civil proceeding involving other municipalities. In the settlement, the municipalities agreed to withdraw their suit, withdraw their protests to the Application, and enter into a wastewater service agreement.

The ALJ issued a Prehearing Order on February 3, 2025, which established a litigation schedule. During February and March 2025, Aqua, I&E, OCA, and OSBA served testimony.

On March 25, 2025, after filing their Main Briefs in accordance with the litigation schedule, Aqua, Beaver Falls, I&E, and OCA submitted the Settlement Petition. The Settling Parties respectfully requested that the ALJ recommend approval of, and the Commission approve, the above-captioned Application consistent with the terms and conditions set forth in the Settlement Petition. OSBA was not a signatory to the Settlement and filed a Brief in Opposition to the Settlement on March 28, 2025. As fully set forth and explained in the Settlement and the Settling Parties’ Statements in Support, as well as Aqua’s Reply Brief, the Settling Parties agreed to a resolution of all issues among them related to the Application. Most relevant here, the Settlement Petition specifically provided for a ratemaking rate base of \$29,900,000 and an amended purchase price of \$37,750,000. Settlement Petition ¶¶ 39-40. The Settlement Petition also provided for a “rate gradualism plan... to limit the base rate increase for [] residential customers” and further contributions by Aqua to its Hardship Fund for low-income customers. *Id.* ¶¶ 43-51.

B. Recommended Decision

In the Recommended Decision, Judge Brady recommended denial of the Settlement Petition and the Application. The only reason provided by the ALJ for his recommended denial of the Settlement Petition was that “Paragraph 39 of the [Settlement] Petition is in violation of Section 1329(c)(2) of the Code, since the agreed upon rate base of \$29,900,000 is neither the purchase price, nor the FMV of the wastewater system.” RD at 9.¹ The Recommended Decision concluded that Paragraph 39 was an “essential term” that was “illegal,” and as a result “the Settlement as a whole is void and unenforceable.” *Id.* at 10.

While the ALJ recommended that the Application be denied (RD at 11-12), the Recommended Decision did not address any aspect of these proceedings aside from a limited three-page analysis of a few select paragraphs in the Settlement Petition. Specifically, the Recommended Decision did not cite or consider the substance of the Application or any record evidence. Notably, the Recommended Decision did not set forth any findings of fact and only set forth five conclusions of law related only to the supposed illegality of the Settlement Petition.

II. SUMMARY OF ARGUMENT

The transaction subject to these Section 1329 proceedings has been in the works for almost five years. After months of deliberation and analysis, the City decided to pursue a sale of the System, and on October 20, 2021, it executed the Asset Purchase Agreement with Aqua. Throughout the duration of the City’s efforts to sell the System, it has endured financial hardship so severe that it is currently on the brink of Act 47 status. Through years of negotiations, proceedings, and even litigation in a related case brought by neighboring municipalities, the City

¹ Citations to the Recommended Decision by Judge Brady are hereinafter notated as “RD.” Recommended decisions by ALJs in other cases are cited by docket number followed by “RD.”

has looked forward with the hope that it could soon divest itself of an aging and deteriorating system that it is simply incapable of maintaining much longer.

On March 25, 2025, after filing their Main Briefs in accordance with the litigation schedule, Aqua, Beaver Falls, I&E, and OCA (together, the “Settling Parties”) submitted the Settlement Petition. In the Settlement Petition, the Settling Parties agreed, *inter alia*, to a rate base of the acquired assets of \$29,900,000 and an amended purchase price of \$37,750,000. *See* Settlement Petition ¶¶ 39-40. Those two numbers were the subject of lengthy negotiations between the Settling Parties and represented a reasonable compromise that recognized the public benefits of the acquisition including a reduced rate impact on consumers, on terms that were amenable to both the seller (Beaver Falls) and the buyer (Aqua), as well as the Statutory Parties, with the sole exception of OSBA.

Much to the surprise of the Settling Parties, the ALJ recommended that the Commission deny the Settlement Petition. The Recommended Decision recommended denial of the Settlement Petition for the *sole reason* that the rate base agreed to by the parties is not equal to either the purchase price or the fair market value of the selling utility. Even more surprisingly, the Recommended Decision recommended denial of the Application in its entirety, despite the fact that the ALJ failed to consider or cite any record evidence, failed to discuss the merits of the Application, and failed to set forth legally sufficient findings of fact and conclusions of law.

For the following reasons, as fully set forth herein, the City respectfully requests that the Commission reject the Recommended Decision and approve the Settlement Petition without modification, or alternatively approve the Application. *First*, the ALJ’s hyper-technical interpretation of Section 1329 is inconsistent with the Commission’s interpretation of the statute, as evidenced by its regular practice of approving similar settlement petitions fixing the post-acquisition rate base by agreement of the parties. *Second*, the Recommended Decision constitutes

a severe departure from the Commission’s policy of encouraging settlements that are in the public interest, as is the case here. *Third*, the Recommended Decision recommended denial of the Application but failed to consider the substance of the Application and the record evidence, including an abundance of evidence demonstrating that the Application should be approved due to the affirmative public benefits that will arise from Aqua’s purchase of the System from the City.

III. EXCEPTIONS

A. **City Exception No. 1: The Interpretation of Section 1329 Urged in the Recommended Decision is Inconsistent with the Commission’s Practice of Approving Similar Settlement Petitions in Accordance with the Public Interest and the Goals of the Statute**

The Recommended Decision recommends the denial of the Settlement Petition on the sole basis that because the rate base value proposed in the Settlement Petition is not equal to either the average of the UVE appraisals or the negotiated purchase price, the Settlement Petition is “illegal and unenforceable and against the public interest.” RD at 8. The hyper-technical interpretation of Section 1329 urged in the Recommended Decision ignores the substance of the proposed transaction and directly contradicts the Commission’s interpretation of the statute, as evidenced by a plethora of similar settlement petitions approved by the Commission since the statute was enacted.

Section 1329 was signed into law in 2016 by Governor Wolf, effective June 13, 2016. Because the valuation process under the prior law, 66 Pa. C.S. § 1311(b) “often created a disincentive for the sale of municipal systems [that were] greatly depreciated,” Section 1329 created an alternative method for assigning a rate base value to the acquired assets designed to “provide[] an incentive to existing utilities or other entities to acquire municipal-owned water and wastewater systems.” *New Garden Township*, A-2016-2580061 at pp. 16, 29 (RD entered April 21, 2017) (adopted by Order of Commission June 29, 2017). The Commission has explained that the enactment of § 1329 reflects the policy goal of regionalizing and consolidating municipal owned

water and wastewater systems that “allows for the increased maintenance, upgrade and expansion of public sewer and water facilities.” *McCloskey v. Pennsylvania Pub. Util. Comm’n*, 195 A.3d 1055, 1065 (Pa. Cmwlth. 2018). Furthermore, the valuation process created by § 1329 “helps mitigate the risk that a utility will not be able to fully recover its investment when water or wastewater assets are acquired from a municipality or authority.” *New Garden Township*, A-2016-2580061 at p.7 (Order entered June 29, 2017); *see also East Norriton Township*, A-2019-3009052 at p.9 (Order entered May 21, 2020).

As noted in the Recommended Decision, § 1329(c) provides that the ratemaking rate base shall be “the lesser of the purchase price negotiated by the acquiring public utility or entity and selling utility or the fair market value of the selling utility.” Notably, however, the Commission has held, since the very first case interpreting § 1329, that the calculations set out in UVE appraisals are not necessarily dispositive of fair market value and that fair market value is subject to analysis, review, and adjustment by litigants and the Commission. *New Garden Township*, A-2016-2580061 at 28-33 (Order entered June 29, 2017). As a result of the Commission’s conclusion that fair market value must be determined by diligent analysis in litigation, disputes about the proper formulation of fair market value have become prevalent in § 1329 proceedings. *See, e.g. Sadsbury Township*, A-2018-3002437 at p.29 (RD entered Oct. 4, 2018); *City of McKeesport*, A-2017-2606103 at p.37 (RD entered Sept. 29, 2017). Critically, the Commission has observed that settlements are useful in resolving disagreements between the parties regarding fair market value. *See, e.g. Sadsbury Township*, A-2018-3002437, RD at pp.30-31 (noting that the settlement “reflects a compromise on various evaluation issues.”)

The Commission has never interpreted § 1329 to mean that the parties proceeding pursuant to the statute cannot come to an agreement for the proper value of the ratemaking rate base. Indeed, since § 1329 was enacted, the Commission has routinely approved settlement petitions in which

the parties consented to an agreed upon ratemaking rate base, even though the approved rate base was not equal to either the purchase price or the average of the UVE appraisals. *See, e.g., City of York*, A-2021-3024681 (Order entered Apr. 14, 2022) (Commission approving without modification settlement petition proposing value for “ratemaking rate base purposes” of \$231.5 million where average of UVE appraisals was \$254 million and negotiated purchase price was \$235 million); *Exeter Township*, A-2018-3004933 (Order entered Oct. 3, 2019) (Commission approving without modification settlement petition proposing ratemaking rate base of \$92 million, where average of UVE appraisals was roughly \$101.7 million and modified purchase price was \$93.5 million); *Steelton Borough Authority*, A-2019-3006880 (Order entered Oct. 3, 2019) (Commission approving without modification settlement petition proposing “a value of \$20.5 million for ratemaking rate base purposes based on a modified purchase price of \$21.75 million for the acquired assets.”); *City of McKeesport*, A-2017-2606103 (Order entered Oct. 26, 2017) (Commission approving without modification settlement petition proposing \$158 million “for ratemaking rate base purposes” and an adjusted purchase price of \$159 million); *Sadsbury Township*, A-2018-3002437 (Order entered Oct. 25, 2018) (approving without modification settlement petition proposing \$8.3 million for “ratemaking rate base purposes for the acquired assets” and purchase price of \$8.6 million).

Contrary to the assertion that the Settlement Petition at issue here runs afoul of § 1329 and defies the public interest (RD at 8), the Commission has observed repeatedly that reaching a compromise based on fully analyzed competing positions is consistent with the statute and beneficial to the public interest. For example, in *City of York*, the ALJ opined:

I agree that this settlement provision **is in the public interest** and recommend that it be approved. As noted, the negotiated rate base value of \$231,500,000 was fully analyzed and vetted by the parties and determined to be reasonable. It was reached as **a compromise of competing positions that was ultimately established after**

extensive analysis by the parties’ respective experts and extensive negotiation by experienced legal counsel. **The agreed upon rate base value falls between the original positions of the parties and, as noted by OCA, falls within the range of likely outcomes in the event of full litigation of the case.** The value is approximately \$23.5 million less than the average of the two appraisals (\$255 million) submitted by PAWC with its application. **I find that the settlement rate base value represents a reasonable compromise by the parties and recommend that it be approved.**

City of York, A-2021-3024681 at p. 32 (RD entered Feb. 28, 2022); *see also East Norriton Township*, A-2019-3009052 at p.27 (Order entered May 21, 2020) (concluding that settlement proposing a rate base different than purchase price and average UVE was “in the public interest.”).

In this case, the ratemaking rate base proposed in the Settlement Petition reflects the Parties’ assessment regarding the fair market value of the acquired assets, as it was arrived at through prolonged settlement discussions between sophisticated parties involving counsel well versed in § 1329 proceedings, appraisers approved by the Commission, and a robust factual record. Furthermore, the Recommended Decision fails to consider that I&E explicitly stated that it was “able to determine that this proposed value [] **comported with the valuation standards and requirements of Section 1329.**” I&E Statement in Support, p 6 (emphasis added).

The compromise rate base proposed in the Settlement Petition is lower than both the amended purchase price of \$37,750,000 and the average UVE of \$42,245,674. OCA presented testimony that the fair market value of the System should be adjusted to \$19,628,354. Aqua Main Brief at p. 39 (citing OCA St. No. 2, p.5). OSBA, the only party not joining the Settlement Petition, has argued that only \$8,454,113 of the transaction price should be included in the rate base pursuant to the Reasonable Review Ratio (“RRR”), the applicability of which was strongly contested by Aqua and the City. Aqua Main Brief at pp.39-40 (citing OSBA St. No. 1, p.9). A rigid rate base cap using the RRR as OSBA contemplates should not be applied in the current case, as the RRR was only first included in the Commission’s Final Supplemental Implementation Order on July 2,

2024 (“2024 FSIO”). The Asset Purchase Agreement governing the transaction was entered into in 2021, roughly three years before the 2024 FSIO was issued. The Commission explicitly stated in the 2024 FSIO that “for acquisitions where an APA has been executed, including those for which a Section 1329 application has been filed, but not finally accepted, we will consider the unique facts and circumstances of each acquisition and take into account the dates on which the APAs were executed and applications were filed.” Here, the City relied for several years on the processes established by Section 1329 without regard for the RRR that did not exist prior to the 2024 FSIO.

Given the divergent positions of OSBA on the application of the RRR and the acceptable rate base, and the positions of OCA and Aqua as to the rate base, Aqua asserted in support of the Settlement Petition that “[i]f the case were fully litigated... the Commission might accept some, but not necessarily all, of the FMV adjustments proposed by OCA” and that “the Settlement ratemaking base of \$29,900,000 is slightly less than the average [] of Aqua’s and the OCA’s litigation positions.” Aqua Statement in Support, pp. 15-16. I&E concurred, asserting that \$29,900,000 “is within the range of possible outcomes if this case were to be litigated to its full conclusion.” I&E Statement in Support, p 6. OCA also concurred, stating that the agreed upon ratemaking rate base “represents an amount that is within the range of possible outcomes in a Commission final order in the event of full litigation of the case based on substantial record evidence.” OCA Statement in Support, p.5.

Accordingly, there can be no doubt that the rate base agreed upon in the Settlement Petition “falls between the original positions of the parties... [and] falls within the range of likely outcomes in the event of full litigation of the case.” *City of York*, A-2021-3024681 at p. 32 (RD entered Feb. 28, 2022). As explained in *City of York*, the discrepancies between these values are not a hindrance to the validity Settlement Petition, but instead a reflection of a reasonable compromise by the Parties as to the fair market value of the acquired assets, which was “fully analyzed and vetted by

the parties and determined to be reasonable.” *Id.* Clearly then, the Commission has not interpreted agreements like the Settlement Petition here to violate the standards established by § 1329, and the Recommended Decision erred in concluding that it did.

B. City Exception No. 2: The Recommended Decision Erred in Departing from the Commission’s Policy of Encouraging Settlement, and in Finding that the Settlement Petition is not in the Public Interest.

The Recommended Decision reflects a stark departure from the Commission’s policy of encouraging settlement and erred in finding that the Settlement Petition at issue here is not in the public interest. First, the public interest would be served by approving this settlement, because the truism that settlements provide the benefits of finality and expedited resolution applies with greater force here, as the transaction at issue is roughly five years in the making. Furthermore, the Settlement Petition promotes the public interest because it reduces the impact of potential rate increases and accomplishes Section 1329’s goal of facilitating the purchase of distressed municipal assets and regionalizing and consolidating municipal wastewater systems.

“It is the policy of the Commission to encourage settlement.” 52 Pa. Code § 5.231. Settlements preserve administrative resources and reduce the time and expense the parties must expend litigating a case. To accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004).

The City of Beaver Falls and its citizens would benefit greatly from a final and immediate resolution of this proceeding, especially because of the vast resources and time expended by the City in arriving at the Settlement Petition. The transaction at issue here had its genesis approximately five years ago, when Beaver Falls commenced a thorough evaluation of the possibility of selling the System, including the involvement of local officials, citizens, and outside experts. Nearly four years ago the City Council decided to pursue a sale, and, on July 23, 2021,

the City issued a Request for Bids. After public meetings and action by the City Council, the City negotiated an Asset Purchase Agreement with Aqua, which was executed on October 20, 2021. Thereafter, the City spent years working with Aqua on the application and negotiating (which ultimately resulted in litigation) with the neighboring municipalities that send wastewater to the City's sewage treatment plant. Thus, while it is always true that settlement is preferable because it provides a final resolution without additional expense and delay, the Recommended Decision was particularly erroneous here in its failure to consider how the Settlement Petition supports the public interest.

Furthermore, the public interest is well served by approval of the Settlement Petition because it results in a reduced rate increase as compared to the potential increase if, after litigation, the Commission ultimately adopted the rate base sought in the Application. Paragraph 39 of the Settlement Petition provides an agreed-upon rate base of \$29,900,000, far less than the original rate base of \$41,250,000 which was the lesser of the negotiated purchase price and average of the UVE appraisals. Rate impact is routinely considered by the Commission in analyzing the "affirmative public benefit test" under Sections 1102 and 1103 of the Code. Thus, it is in the public interest to approve the Settlement Petition, which arrives at a compromise position with a reduced rate impact that OCA and I&E have determined, through its support of the Settlement Petition, to be reasonable.

Lastly, the public interest is served by the approval of the Settlement Petition because it furthers the Commission's policy of "consolidation and regionalization of its wastewater assets that allows for the increased maintenance, upgrade and expansion of public sewer and water facilities." *McCloskey*, 195 A.3d at 1065. As noted in the City's Main Brief, approval of the Settlement Petition promotes consolidation and regionalization: Aqua operates dozens of wastewater treatment plants in the Commonwealth and provides service to tens of thousands of

customers through hundreds of employees including professionals performing management, compliance, engineering, and many other functions. Moreover, approval of the Settlement Petition allows for “increased maintenance, upgrade and expansion” of the System. Aqua and its parent company, Aqua PA, have abundant access to financing and equity capital which can be used to fund improvements to the System. *See* Aqua Main Brief at 13-14.

The ALJ gave no consideration to any of these benefits to the public interest and instead predicated the entire Recommended Decision on the contention that the Settlement Petition was not in the public interest because it was “illegal.” For all the foregoing reasons, the Commission should approve the Settlement Petition in accordance with its policy of encouraging settlements that are in the public interest.

C. City Exception No. 3: The Recommended Decision Errs in Ignoring Abundant Record Evidence Demonstrating Affirmative Public Benefits Derived from Approval of the Transaction.

As stated *infra*, *Section IV*, the City incorporates Aqua’s exceptions in their entirety herein, including Aqua’s assertion that the Recommended Decision erred by recommending denial of the Application without rendering a legitimate decision on the merits. Aqua points out, *inter alia*, that the Recommended Decision erred because it (1) did not set forth any findings of fact; (2) did not set forth conclusions of law on *all* material issues as required by the Code, and (3) failed to reach the merits of the proposed transaction. In addition to those arguments, the Commission should also consider the substantial record evidence—none of which was considered by the ALJ—demonstrating that approval of the acquisition satisfies the affirmative public benefits test under Sections 1102 and 1103 of the Code. Thus, in light of that evidence, even if the Settlement Petition is not approved the Commission should approve the Application.

The Recommended Decision recommended denial of Aqua’s Application. RD at 11-12. However, the ALJ did not consider or discuss any aspect of these proceedings, other than engaging

in a limited, three-page analysis of a few provisions of the Settlement Petition. *Id.* at 8-10. Indeed, the ALJ's recommendation to deny the Application was explicitly predicated on just five conclusions of law related only to the Settlement Petition, and omitted any findings of fact, let alone any findings of fact related to the substance of the Application or the abundance of record evidence submitted by the Parties. *Id.* at 10-11. Thus, the ALJ's recommendation to deny the Application, which has been subject to several years of litigation, was clearly erroneous. In the event the Commission does not approve the Settlement Petition, the City respectfully requests that the Commission consider the Parties' briefing and the record evidence and approve the Application.

As set out in full in the City's Main Brief, the proposed transaction will affirmatively benefit the public because the City is ill-equipped to operate and maintain the system going forward and needs the revenue from the sale to operate other essential government functions. The record is replete with evidence demonstrating this to be true. For example, the City presented evidence that, *inter alia*: (1) the City is on the verge of being named a "distressed community" by the Commonwealth Department of Community and Economic Development or Act 47 status; (2) the City has struggled to operate the System and is, due to financial and operational constraints, unable to proactively address anticipated future problems with the System; (3) there is a recent history of environmental and safety concerns with the System; (4) the City needs the revenue from the sale to focus on other fundamental government functions such as safety, jobs, healthcare, and balancing the budget; (5) the City received a \$2,000,000 deposit from Aqua pursuant to the Asset Purchase Agreement, and has already spent the proceeds to address the aforementioned shortfalls

in its budget. On the other hand, Aqua is well positioned to operate a safe and effective system and has the resources necessary to maintain and improve it.²

These circumstances are plainly sufficient to demonstrate an affirmative public benefit under the prevailing legal standards. The Recommended Decision did not consider any of this evidence. Thus, even if the Settlement Petition is not approved, the Commission should approve the transaction for the reasons set out in the Main Briefs of the City and Aqua and in accordance with the record evidence.

IV. INCORPORATION OF AQUA, OCA, AND B&I'S EXCEPTIONS

In addition to the above Exceptions the City of Beaver Falls adopts and incorporates by reference the Exceptions filed by Aqua, OCA, and I&E to the Recommended Decision.

V. CONCLUSION

For all of the reasons set forth herein, the City respectfully submits that Judge Brady erred in concluding that the Settlement Agreement and Application should be denied. The City respectfully requests that the Commission grant the Exceptions submitted by the City and Aqua regarding the Recommended Decision and approve the Settlement Agreement. Alternatively, because the Commission is presented with a record that fully demonstrates the proposed transaction's numerous substantial affirmative public benefits, the Commission should approve the Application.

Dated: April 22, 2025

/s/ James J. Rodgers
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² See generally, Brief of Intervenor City of Beaver Falls in Support of Application of Aqua Pennsylvania Wastewater, Inc. for Approval of Acquisition of Beaver Falls' Wastewater Assets Pursuant to 66 Pa. C.S. §§ 507, 508, 1102, 1329.

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing **Exceptions of City of Beaver Falls** upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

VIA EMAIL ONLY

The Honorable F. Joseph Brady
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Date: April 22, 2025

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